



Western Australia

Education and Care Services National Law (WA) Act 2012

**Education and Care Services National
Amendment Regulations (No. 4) 2023**

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Education and Care Services National Amendment Regulations (No. 4) 2023

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Education and Care Services National Amendment Regulations (No. 4) 2023*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published on the WA legislation website;
- (b) regulations 23 and 26 — on 1 June 2024;
- (c) regulation 41 — on 2 February 2024;
- (d) the rest of the regulations — on 1 December 2023.

3. Regulations amended

These regulations amend the *Education and Care Services National Regulations 2012*.

4. Regulation 4 amended

In regulation 4(1) insert in alphabetical order:

multi-storey building means a building with more than 2 storeys;

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storey, of a building, includes the following —

- (a) the ground level;
- (b) a level of a split level;

5. Regulation 25 amended

After regulation 25(1)(b) insert:

- (ba) if the proposed education and care service premises will be located within a multi-storey building shared with other occupants —
 - (i) the total number of storeys in the building; and
 - (ii) the storey or storeys on which the premises will be located; and
 - (iii) if the premises will be located on more than 1 storey — the ages of the children who will attend on each storey;

6. Regulation 26 amended

(1) After regulation 26(1)(n)(i) insert:

- (ia) if the proposed family day care venue will be located within a multi-storey building shared with other occupants — the information specified in subregulation (3); and

- (2) After regulation 26(2) insert:
- (3) For the purposes of subregulation (1)(n)(ia), the application must include the following information —
- (a) the total number of storeys in the building;
 - (b) the storey or storeys on which the venue will be located;
 - (c) if the venue will be located on more than 1 storey — the ages of the children who will attend on each storey.

7. Regulation 27 amended

In regulation 27:

- (a) in paragraph (b) delete “approval.” and insert:

approval;
- (b) after paragraph (b) insert:

 - (c) in the case of a proposed family day care venue or centre-based service to be located within a multi-storey building shared with other occupants, for each storey on which the venue or service is proposed to be located, whether there is direct egress to an assembly area to allow the safe evacuation of all children attending the venue or service, including non-ambulatory children.

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8. Regulation 34 amended

(1) After regulation 34(1)(f)(i) insert:

- (ia) whether the family day care venue is proposed to be located within a multi-storey building shared with other occupants and, if so, the additional information specified in subregulation (1A); and

(2) After regulation 34(1) insert:

(1A) For the purposes of subregulation (1)(f)(ia), the additional information to be included in an application is —

- (a) the total number of storeys in the multi-storey building; and
- (b) the storey or storeys on which the venue is proposed to be located; and
- (c) if the venue is proposed to be located on more than 1 storey — the ages of the children who will attend on each storey.

9. Regulation 41 replaced

Delete regulation 41 and insert:

41. Service waiver — prescribed regulations

The regulations prescribed for the purposes of section 87(1) of the Law are —

- (a) regulations 104, 107, 108 and 110; and

- (b) in the case of a centre-based service, any provision in Part 4.3 Division 2 and regulations 120, 123, 126 and 130 to 134; and
- (c) in the case of a family day care service, regulations 72A, 117, 124, 127 and 128; and
- (d) any provision in Chapter 7 that applies in place of a provision referred to in paragraphs (a) to (c).

10. Regulation 42 amended

In regulation 42:

- (a) in paragraph (d)(i) delete “the elements of the National Quality Standard and”;
- (b) in paragraphs (d)(ii) and (e) delete “elements or” (each occurrence).

11. Regulation 44 replaced

Delete regulation 44 and insert:

44. Temporary waiver — prescribed regulations

The regulations prescribed for the purposes of section 94 of the Law are —

- (a) regulations 104, 107, 108 and 110; and
- (b) in the case of a centre-based service, any provision in Part 4.3 Division 2 and regulations 120, 123, 126, 130 to 134 and 136; and
- (c) in the case of a family day care service, regulations 72A, 117, 124, 127, 128 and 136; and

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- (d) any provision in Chapter 7 that applies in place of a provision referred to in paragraphs (a) to (c).

Note for this regulation:

This regulation differs from regulation 44 of the national regulations made by the Ministerial Council.

12. Regulation 45 amended

In regulation 45:

- (a) in paragraph (d)(i) delete “elements of the National Quality Standard and the”;
- (b) in paragraphs (d)(ii), (e), (f) and (h) delete “elements or”.

13. Regulation 74 amended

- (1) In regulation 74(1)(b) delete “evaluations of the child’s wellbeing, development and learning.” and insert:

evidence about the development of the program.

- (2) In regulation 74 delete the note and insert:

Notes for this regulation:

1. This regulation differs from regulation 74 of the national regulations made by the Ministerial Council.
2. A compliance direction may be issued for failure to comply with subregulation (1).

Note: The heading to amended regulation 74 is to read:

Documenting of child assessments and evidence of development of educational programs

14. Regulation 81 deleted

Delete regulation 81.

15. Regulation 84 amended

(1) In regulation 84:

(a) delete “The” and insert:

(1) The

(b) delete “nominated supervisors and staff members at the service who work with children are” and insert:

a person specified in subregulation (2) who works with children is

(c) in paragraph (b) delete “they” and insert:

the person

(d) delete the note.

(2) In regulation 84 delete the Penalty and insert:

Penalty: \$1100.

(3) At the end of regulation 84 insert:

(2) The following persons are specified —

(a) a nominated supervisor of the service;

(b) a staff member of the service;

(c) a volunteer at the service;

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(d) a student who participates in the service.

Note for this regulation:

A compliance direction may be issued for failure to comply with subregulation (1).

16. Chapter 4 Part 4.2 Division 1A inserted

After Chapter 4 Part 4.2 Division 1 insert:

Division 1A — Sleep and rest

84A. Sleep and rest

(1) The approved provider of an education and care service must take reasonable steps to ensure that the needs for sleep and rest of children being educated and cared for by the service are met, having regard to the ages, developmental stages and individual needs of the children.

Penalty: \$1100.

(2) A nominated supervisor of an education and care service must take reasonable steps to ensure that the needs for sleep and rest of children being educated and cared for by the service are met, having regard to the ages, developmental stages and individual needs of the children.

Penalty: \$1100.

(3) A family day care educator must take reasonable steps to ensure that the needs for sleep and rest of children being educated and cared for by the educator as part of a family day care service are met, having regard to the

ages, developmental stages and individual needs of the children.

Penalty: \$1100.

Note for this regulation:

A compliance direction may be issued for failure to comply with subregulation (1).

84B. Sleep and rest policies and procedures

The sleep and rest policies and procedures required under regulation 168(2)(a)(v) must address —

- (a) how children will be protected from any risks identified in a risk assessment conducted under regulation 84C; and
- (b) how the sleep and rest needs of children being educated and cared for by the service are met, including how the ages, developmental stages and the sleep and rest needs of individual children are considered; and
- (c) how the health care needs of individual children being educated and cared for by the service are met; and
- (d) how requests from families about a child's sleep and rest and cultural preferences are considered; and
- (e) supervision and monitoring during sleep and rest periods, including —
 - (i) the method and frequency of checking the safety, health and wellbeing of children during sleep and rest periods; and
 - (ii) the documentation of sleep and rest periods;

and

- (f) how the sleep and rest practices at the service are consistent with any current health guidelines on the best practices to adopt to ensure the safety of children during sleep and rest; and
- (g) the induction, training and knowledge of staff who educate and care for children at the service in relation to best practices for children's sleep and rest; and
- (h) the location and arrangement of sleep and rest areas at the service and how this meets the sleep and rest needs of children being educated and cared for by the service; and
- (i) safety and suitability of cots, bedding and bedding equipment, having regard to the ages and developmental stages of children who will use the cots, bedding and bedding equipment; and
- (j) management of potential hazards —
 - (i) in sleep and rest areas; and
 - (ii) on a child during sleep and rest periods; and
- (k) management of physical safety and suitability of sleep and rest environments (including temperature, lighting and ventilation); and
- (l) in the case of a family day care service that provides overnight care, management of risks relating to overnight care at each family day care residence or approved family day care venue of the service; and

- (m) communication of the sleep and rest policies and procedures to a parent or family member.

Note for this regulation:

This regulation differs from regulation 84B of the national regulations made by the Ministerial Council.

84C. Risk assessment for purposes of sleep and rest policies and procedures

- (1) The approved provider of an education and care service must ensure that a sleep and rest risk assessment is conducted in accordance with this regulation —
 - (a) at least once every 12 months; and
 - (b) as soon as practicable after becoming aware of any circumstance that may affect the safety, health or wellbeing of children during sleep and rest.

Penalty: \$2000.

- (2) A risk assessment must consider the following —
 - (a) the number, ages and developmental stages of children being educated and cared for —
 - (i) by the education and care service; or
 - (ii) in the case of a family day care service, at each family day care residence or approved family day care venue of the service;
 - (b) the sleep and rest needs of children being educated and cared for (including health care needs, cultural preferences, sleep and rest needs of individual children and requests from families about a child's sleep and rest) —
 - (i) by the education and care service; or
 - (ii) in the case of a family day care service, at each family day care residence or

- approved family day care venue of the service;
- (c) the suitability of staffing arrangements to adequately supervise and monitor children during sleep and rest periods;
 - (d) the level of knowledge and training of staff supervising children during sleep and rest periods;
 - (e) the location of sleep and rest areas, including the arrangement of cots and beds within the sleep and rest areas —
 - (i) at the education and care service; or
 - (ii) in the case of a family day care service, at each family day care residence or approved family day care venue of the service;
 - (f) the safety and suitability of any cots, beds and bedding equipment, having regard to the ages and developmental stages of the children who will use the cots, bed and bedding equipment;
 - (g) any potential hazards —
 - (i) in sleep and rest areas; or
 - (ii) on a child during sleep and rest periods;
 - (h) the physical safety and suitability of sleep and rest environments (including temperature, lighting and ventilation) —
 - (i) at the education and care service; or
 - (ii) in the case of a family day care service, at each family day care residence or approved family day care venue of the service;
 - (i) in the case of a family day care service that provides overnight care to a child, any risks that

the overnight care provided at the family day care residence or approved family day care venue of the service may pose to the safety, health or wellbeing of the child.

- (3) As soon as practicable after conducting a risk assessment under this regulation, the approved provider of an education and care service must make any necessary updates to the sleep and rest policies and procedures.
- (4) The approved provider must keep a record of each risk assessment conducted under this regulation.

Note for this regulation:

A compliance direction may be issued for failure to comply with subregulation (1).

84D. Prohibition of bassinets

- (1) The approved provider of an education and care service must ensure that a bassinet is not on the education and care service premises at any time during which children are being educated and cared for by the service.
Penalty: \$2000.
- (2) A nominated supervisor of an education and care service must ensure that a bassinet is not on the education and care service premises at any time during which children are being educated and cared for by the service.
Penalty: \$2000.
- (3) A family day care educator must ensure that, at any time during which the educator is educating and caring for children as part of a family day care service, a bassinet is not on the education and care service

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premises from which the educator is providing the education and care.

Penalty: \$2000.

Note for this regulation:

A compliance direction may be issued for failure to comply with subregulation (1).

17. Regulation 97 amended

(1) In regulation 97(1):

(a) in paragraph (b) delete “plan.” and insert:

plan; and

(b) after paragraph (b) insert:

(c) if the education and care service premises is located within a multi-storey building shared with other occupants and on a storey with no direct egress to an assembly area —

- (i) all possible evacuation routes from each storey on which the premises is located; and
- (ii) the evacuation routes that are proposed to be used in an evacuation; and
- (iii) how all children will be safely evacuated from the premises, including non-ambulatory children; and
- (iv) the stages in which an evacuation will be carried out; and
- (v) the identity of the person in charge of an evacuation; and

- (vi) the roles and responsibilities of staff members during an evacuation; and
- (vii) the arrangements made with the other occupants of the multi-storey building in relation to the evacuation of the multi-storey building.

(2) After regulation 97(2) insert:

- (2A) The approved provider of a centre-based service must review the risk assessment conducted under subregulation (2) —
- (a) at least once every 12 months; and
 - (b) as soon as practicable after becoming aware of any circumstance that may affect the safe evacuation of children from the service.

Penalty: \$2000.

- (2B) As soon as practicable after reviewing the risk assessment under subregulation (2A), the approved provider of a centre-based service must make any necessary updates to the emergency and evacuation policies and procedures.

Penalty: \$2000.

Note:

The note at the end of regulation 97 is to be altered after “subregulation (2),” by inserting:

(2A),

18. Chapter 4 Part 4.2 Division 6A inserted

After Chapter 4 Part 4.2 Division 6 insert:

Division 6A — Safe arrival of children

102AA. Definition

In this Division —

education or early childhood service means —

- (a) a school; or
- (b) an education and care service; or
- (c) a children's service; or
- (d) any other service which provides education or care to children.

102AAB. Safe arrival of children policies and procedures

- (1) The safe arrival of children policies and procedures required under regulation 168(2)(gb) must set out the procedures to be followed by an education and care service to ensure the safe arrival of children who travel between an education and care service and any other education or early childhood service.
- (2) In preparing the safe arrival of children policies and procedures, the approved provider of an education and care service must consult with —
 - (a) staff of the service; and
 - (b) parents of children being educated and cared for by the service; and
 - (c) children being educated and cared for by the service (if applicable).

102AAC. Risk assessment for the purposes of safe arrival of children policies and procedures

- (1) For the purposes of preparing the safe arrival of children policies and procedures under regulation 102AAB(1), the approved provider of an education and care service must ensure that a risk assessment is conducted in accordance with this regulation.
Penalty: \$2000.
- (2) The approved provider must conduct a risk assessment —
 - (a) at least once every 12 months; and
 - (b) as soon as practicable after becoming aware of any circumstance that may affect the safe arrival of children travelling between an education and care service and any other education or early childhood service.
- (3) A risk assessment must —
 - (a) identify and assess any risks that a child’s travel between an education and care service and any other education or early childhood service may pose to the safety, health or wellbeing of the child; and
 - (b) specify how the identified risks will be managed and minimised.
- (4) Without limiting subregulation (3), a risk assessment must consider the following, in respect of a child who travels between an education and care service and any other education or early childhood service —
 - (a) the age, developmental stage and individual needs of the child;

- (b) the role and responsibilities of the following persons (if applicable) —
 - (i) in the case of a child who leaves the service premises to travel to an education and care service premises of another education and care service — the nominated supervisor of each service;
 - (ii) the child’s parent;
 - (iii) an authorised nominee named in the child’s enrolment record;
 - (iv) a person authorised by —
 - (A) the child’s parent; or
 - (B) an authorised nominee named in the child’s enrolment record;
- (c) the role and responsibilities of the service the care of which the child is entering or leaving;
- (d) the communication arrangements between the service the child is leaving and the service the child is entering, including any communication arrangements if the child is missing or cannot be accounted for during the child’s travel;
- (e) the procedure to be followed by the service if the service has identified that the child is missing or cannot be accounted for during the child’s travel;
- (f) given the risks posed by the child’s travel, the number of educators or other responsible adults that are appropriate to provide supervision;
- (g) the proposed route and destination, including any proximity to harm and hazards;

- (h) the process for entering and exiting —
 - (i) the service premises; and
 - (ii) the pick-up location or destination (as required);
 - (i) the procedure to be followed by the service to ensure the child leaves the service premises in accordance with section 165A(4)(b) of the Law as applying in Western Australia.
- (5) If, after conducting a risk assessment, a risk relating to a child’s travel is identified, the approved provider must make any necessary updates to the safe arrival of children policies and procedures as soon as practicable.
- (6) The approved provider must keep a record of each risk assessment conducted under this regulation.

Note for this regulation:

A compliance direction may be issued for failure to comply with subregulation (1).

19. Regulation 102B amended

At the end of regulation 102B insert:

Note for this regulation:

A compliance direction may be issued for failure to comply with subregulation (1).

20. Regulation 116 amended

- (1) In regulation 116(1) in the Penalty delete “\$2 000.” and insert:

\$2000.

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- (2) In regulation 116(1B) in the Penalty delete “\$2 000.” and insert:

\$2000.

- (3) After regulation 116(2)(b) insert:

- (ba) if the residence or venue is located in a multi-storey building shared with other occupants, for each storey on which the residence or venue is located, whether there is direct egress to an assembly area to allow the safe evacuation of all children attending the residence or venue, including non-ambulatory children;

21. Regulations 116A to 116C inserted

After regulation 116 insert:

116A. Inspection of swimming pools, water features and other potential water hazards at family day care residences and approved family day care venues

Notes for this regulation:

1. Regulation 116A of the national regulations made by the Ministerial Council does not apply as a law of WA.
2. For a provision reflecting regulation 116A of the national regulations made by the Ministerial Council see regulation 373E.

116B. Inspection report

Notes for this regulation:

1. Regulation 116B of the national regulations made by the Ministerial Council does not apply as a law of WA.

2. For a provision reflecting regulation 116B of the national regulations made by the Ministerial Council see regulation 373E.

116C. Compliance with fencing requirements for swimming pools at family day care residences and approved family day care venues

Note for this regulation:

Regulation 116C of the national regulations made by the Ministerial Council does not apply as a law of WA.

22. Regulation 127 amended

In regulation 127 delete “hold, or be actively working towards,” and insert:

hold

23. Regulation 136 amended

After regulation 136(4) insert:

- (4A) For the purposes of this regulation and regulation 153 —
- (a) an approved first aid qualification is taken to be current if —
 - (i) in the case of emergency life support training and cardio-pulmonary resuscitation training that forms part of the approved first aid qualification — the training was completed within the previous year; and

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- (ii) in the case of any other training that forms part of the approved first aid qualification — the training was completed within the previous 3 years;
- and
- (b) approved anaphylaxis management training is taken to be current if the training was completed within the previous 3 years; and
 - (c) approved emergency asthma management training is taken to be current if the training was completed within the previous 3 years.

24. Regulation 144 amended

In regulation 144(4)(a) after “transport” insert:

or escort

25. Regulation 149 amended

In regulation 149(1):

- (a) delete “full name, address and date of birth of” and insert:

following information in relation to

- (b) delete “service.” and insert:

service —

- (a) the full name, address and date of birth of the student or volunteer;

- (b) if the centre-based service is located within a jurisdiction with a working with children law or a working with vulnerable people law and the student or volunteer is required or permitted to obtain a working with children check under that law — a record of the identifying number of the student's or volunteer's current working with children check conducted under that law and the expiry date of that check, unless paragraph (c) applies;
- (c) except in the case of New South Wales, Queensland, South Australia and Tasmania, if the student or volunteer has provided proof of their current teacher registration under an education law of a participating jurisdiction — a record of the identifying number of the teacher registration and the expiry date of that registration.

26. Regulation 153 amended

- (1) In regulation 153(1):
 - (a) delete paragraph (j) and insert:
 - (j) evidence that the educator holds a current approved first aid qualification;
 - (ja) evidence that the educator has undertaken —
 - (i) current approved anaphylaxis management training; and
 - (ii) current approved emergency asthma management training;

- (b) after paragraph (m) insert:
 - (ma) if regulation 124(5) applies, a record of an approval granted in relation to the educator that includes the following information —
 - (i) the nature of the exceptional circumstances described in regulation 124(6);
 - (ii) the date on which the approval was granted;
 - (iii) the name of the person who granted the approval;
 - (iv) for each child educated and cared for by the educator as part of the approval — the child's name and date of birth;
 - (v) the period during which the educator is approved to educate and care for more than 7 children, or more than 4 children who are preschool age or under, at any one time, in exceptional circumstances;

- (2) Delete regulation 153(2)(g) and insert:

- (g) if the co-ordinator will be providing education and care to children — evidence that the co-ordinator holds a current approved first aid qualification;
- (ga) if the co-ordinator will be providing education and care to children, evidence that the co-ordinator has undertaken —
 - (i) current approved anaphylaxis management training; and

- (ii) current approved emergency asthma management training;

(3) Delete regulation 153(3)(i) and insert:

- (i) evidence that the educator assistant holds a current approved first aid qualification;
- (ia) evidence that the educator assistant has undertaken —
 - (i) current approved anaphylaxis management training; and
 - (ii) current approved emergency asthma management training;

(4) At the end of regulation 153 insert:

Note for this regulation:

See regulation 136(4A) in relation to how an approved first aid qualification, approved anaphylaxis management training or approved emergency asthma management training is taken to be current.

27. Regulation 164 amended

(1) In regulation 164(1)(b) and (2)(b) delete “has previously been considered under regulation 163 in relation to the” and insert:

resides, or intends to reside, at the educator’s

(2) In regulation 164(2) in the Penalty delete “\$2 000.” and insert:

\$2000.

- (3) After regulation 164(2) insert:
- (3) For the purposes of subregulations (1)(b) and (2)(b), a circumstance that may affect whether a person is a fit and proper person to be in the company of children includes any of the following —
- (a) the person is charged with or convicted of any of the following —
 - (i) an offence of a sexual nature;
 - (ii) an offence of a violent nature;
 - (iii) an offence involving drugs;
 - (iv) an offence involving a weapon;
 - (b) the rejection of the person's application for any of the following, or the revocation or suspension of any of the following held by the person —
 - (i) a working with vulnerable people check;
 - (ii) a working with vulnerable people registration;
 - (iii) a working with children check;
 - (iv) a working with children card;
 - (c) the person is prohibited from working with children.
- (4) A person who provides notification under subregulation (1)(b) or (2)(b) is not required to provide specific details of the circumstance that they consider may affect whether a person is a fit and proper person to be in the company of children.

Note: The heading to amended regulation 164 is to read:

Requirement for notice in relation to persons at residence

28. Regulation 168 amended

- (1) In regulation 168(1) in the Penalty delete “\$1000.” and insert:

\$1100.

- (2) In regulation 168(2):

- (a) in paragraph (a)(v) delete “children;” and insert:

children, including the matters set out in regulation 84B;

- (b) after paragraph (ga) insert:

- (gb) the safe arrival of children who travel between an education and care service and any other education or early childhood service within the meaning of regulation 102AA, including the matters set out in regulation 102AAB;

- (c) in paragraph (h) delete “environment;” and insert:

environment, including matters relating to —

- (i) the promotion of a culture of child safety and wellbeing within the service;
and
(ii) the safe use of online environments at the service;

(d) in paragraph (o) delete “complaints.” and insert:

complaints, including matters relating to —

- (i) the provision of a complaint handling system at the service that is child focused; and
- (ii) the management of a complaint that alleges a child is exhibiting harmful sexual behaviours.

29. Regulation 173 amended

- (1) In regulation 173(1)(e)(i) delete “the elements of the National Quality Standard and”.
- (2) In regulation 173(3) delete the Penalty and insert:

Penalty: \$2000.

30. Regulation 175 amended

After regulation 175(2)(a) insert:

- (ab) in the case of a centre-based service — any change to the ages of children being educated or cared for by the service;
- (ac) in the case of a centre-based service — any change to the nature of education and care offered by the service;

Example:

If a centre-based service educates and cares for children over preschool age and the service proposes to offer education and care to children who are preschool age and under.

31. Regulation 176A replaced

Delete regulation 176A and insert:

176A. Prescribed information to be notified to approved provider by family day care educator

- (1) For the purposes of section 174A(c) of the Law, the following matters are prescribed —
 - (a) any circumstances arising at the family day care residence that may pose a risk to the health, safety and wellbeing of children attending or likely to attend the family day care residence;
 - (b) any circumstances arising at the approved family day care venue that may pose a risk to the health, safety and wellbeing of children attending or likely to attend the family day care venue.
- (2) For the purposes of subregulation (1)(a) and (b), relevant circumstances include any of the following —
 - (a) any renovations or other changes to the residence or venue;
 - (b) an infectious disease outbreak at the residence or venue;
 - (c) a bushfire, flood or other natural disaster that may affect the residence or venue.

32. Regulation 177 amended

- (1) In regulation 177(3)(a) delete “subregulation (4),” and insert:

subregulations (4) and (4A),

- (2) After regulation 177(4) insert:
- (4A) Before disclosing to a parent of a child enrolled at the service any personal information relating to a person specified in subregulation (4B) that is contained in a document referred to in subregulation (1), the approved provider must obtain the written consent of the person to whom the personal information relates to the disclosure of that personal information.
- (4B) The following persons are specified —
- (a) a parent of a child enrolled at the service, if that person is not the parent making the request under subregulation (3)(a);
 - (b) a person who is required to be notified of an emergency involving a child enrolled at the service if a parent of the child cannot be immediately contacted;
 - (c) an authorised nominee of a child enrolled at the service;
 - (d) a person who is authorised to consent to medical treatment of, or to authorise administration of medication to, a child enrolled at the service;
 - (e) a person who is authorised to authorise an educator to take a child enrolled at the service outside the service premises;
 - (f) a person who is authorised to authorise the service to transport a child enrolled at the service or arrange transportation of a child enrolled at the service.

(4C) A person who has given their written consent under subregulation (4A) may withdraw their consent in writing at any time before the personal information is disclosed.

(3) After regulation 177(5) insert:

(6) In this regulation —
personal information has the same meaning as it has in the *Privacy Act 1988* (Commonwealth).

33. Regulation 178 amended

(1) In regulation 178(3) delete “subregulation (4),” and insert:

subregulations (4) and (5),

(2) After regulation 178(4) insert:

(5) Before disclosing to a parent of a child enrolled at the service any personal information relating to a person specified in subregulation (6) that is contained in a document referred to in subregulation (1), the family day care educator must obtain the written consent of the person to whom the personal information relates to the disclosure of that personal information.

(6) The following persons are specified —

(a) a parent of a child enrolled at the service, if that person is not the parent making the request under subregulation (3);

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- (b) a person who is required to be notified of an emergency involving a child enrolled at the service if a parent of the child cannot be immediately contacted;
 - (c) an authorised nominee of a child enrolled at the service;
 - (d) a person who is authorised to consent to medical treatment of, or to authorise administration of medication to, a child enrolled at the service;
 - (e) a person who is authorised to authorise a family day care educator to take a child enrolled at the service outside the service premises;
 - (f) a person who is authorised to authorise the service to transport a child enrolled at the service or arrange transportation of a child enrolled at the service.
- (7) A person who has given their written consent under subregulation (5) may withdraw their consent in writing at any time before the personal information is disclosed.
- (8) In this regulation —
personal information has the same meaning as it has in the *Privacy Act 1988* (Commonwealth).

34. Regulation 181 amended

In regulation 181(b):

- (a) delete “relates, except” and insert:

relates in accordance with regulation 177 (except

(b) delete “record; or” and insert:

record); or

35. Regulation 182 amended

In regulation 182(b) delete “relates; or” and insert:

relates in accordance with regulation 178; or

36. Regulation 190 amended

After regulation 190(1)(c) insert:

(ca) regulation 84D(1), (2) and (3) (prohibition of bassinets);

37. Regulation 205 amended

Before regulation 205(f)(i) insert:

(iaa) the power conferred under section 8(3) of that Act as modified under regulation 209(ja);

(iab) the power conferred under section 11C(2) of that Act as modified under regulation 209(ja);

38. Regulation 209 amended

After regulation 209(j) insert:

- (ja) as if a reference in sections 8(3) and 11C(2) to legislative instrument were a reference to instrument; and

39. Regulation 227 amended

- (1) In regulation 227(2A)(a) delete “section 188B” and insert:

section 188AB

- (2) In regulation 227(3)(e)(i) delete “section 188B” and insert:

section 188AB

40. Regulation 254 amended

Delete regulation 254(2).

41. Regulation 254 deleted

Delete regulation 254.

42. Regulation 373A amended

- (1) In regulation 373A in the Penalty delete “\$1 000.” and insert:

\$1100.

- (2) In regulation 373A delete the note.

- (3) At the end of regulation 373A insert:

Notes for this regulation:

1. This regulation differs from regulation 373A of the national regulations made by the Ministerial Council.
2. See regulation 74(1)(b) which sets out requirements for documenting evidence about development of an educational program for children over preschool age.

43. Part 7.15 inserted

At the end of Chapter 7 insert:

**Part 7.15 — Transitional and savings provisions for
*Education and Care Services National Amendment
Regulations (No. 4) 2023***

**415. Family day care educator actively working towards
qualification prior to commencement day**

- (1) In this regulation —
commencement day means 1 December 2023.
- (2) This regulation applies in relation to a family day care educator who, immediately before commencement day, was actively working towards at least an approved certificate III level education and care qualification.
- (3) The family day care educator is taken to comply with regulation 127 until the earlier of the following —
 - (a) the family day care educator ceases to be actively working towards the qualification as described in subregulation (2);

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(b) 30 November 2024.

Note for this regulation:

This regulation differs from regulation 415 of the national regulations made by the Ministerial Council.

44. Schedule 3 amended

In Schedule 3:

- (a) delete the row relating to Regulation 81(1);
- (b) in the row relating to Regulation 84 delete “84” and insert:

84(1)

- (c) after the row relating to Regulation 84 insert:

| | |
|-------------------|--|
| Regulation 84A(1) | Reasonable steps to ensure that the needs for sleep and rest of children are met |
| Regulation 84C(1) | Risk assessment for the purposes of preparing sleep and rest policies and procedures |
| Regulation 84D(1) | Prohibition of bassinets |

- (d) in the row relating to Regulation 97(2), (3), (4) after “97(2),” insert:

(2A),

(e) after the row relating to Regulation 98 insert:

| | |
|----------------------|--|
| Regulation 102AAC(1) | Risk assessment for the purposes of preparing safe arrival of children policies and procedures |
| Regulation 102B(1) | Transport risk assessment must be conducted before service transports child |

45. Various penalties amended

(1) In the provisions listed in the Table in the Penalty delete “\$1000.” and insert:

\$1100.

Table

| | |
|------------------------|------------------------|
| r. 80(1), (2) and (3) | r. 93(2) |
| r. 98 | r. 102(1), (2) and (3) |
| r. 112(3) | r. 114 |
| r. 119 | r. 120 |
| r. 157(1), (2) and (3) | r. 169(1) |
| r. 170(1) and (2) | r. 171(1) and (2) |
| r. 187(3) | |

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- (2) In the provisions listed in the Table delete “Penalty for this subregulation: a fine of \$2 000.” and insert:

Penalty: \$2000.

Table

| | |
|------------|------------|
| r. 102B(1) | r. 102B(2) |
| r. 102B(3) | r. 102E(2) |
| r. 102E(3) | r. 102F(2) |
| r. 102F(3) | |

- (3) In regulation 102D(1) delete the Penalty and insert:

Penalty: \$1100.

- (4) In regulation 102D(2) delete the Penalty and insert:

Penalty: \$1100.

- (5) In regulation 102D(3) delete the Penalty and insert:

Penalty: \$1100.

Note:

The Guide to Chapter 4 is to be altered:

- (a) after “*Division 1* sets out requirements to be put in place for the health, safety and wellbeing of children.” by inserting:

Division 1A sets out requirements relating to the sleep and rest of children.

- (b) after “*Division 6* sets out requirements for collection of children from premises and excursions.” by inserting:

Division 6A sets out requirements relating to the safe arrival of children who travel between an education and care service and any other education or early childhood service.

Division 7 sets out requirements relating to the transportation of children other than as part of an excursion.

N. HAGLEY, Clerk of the Executive Council